



12-22-03

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PTO/SB/21 (08-03)

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/080,925
	Filing Date	February 22, 2002
	First Named Inventor	Andrew Corlett
	Art Unit	2857
	Examiner Name	TBA
Total Number of Pages in This Submission	1	
	Attorney Docket Number	Y1618-00001

Total Number of Pages in This Submission

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ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input checked="" type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<small>Remarks</small> 1. Statement under 37 C.F.R. 3.73(b) 2. Assignment Recordation Cover Sheet - Form 1595 3. Employee Proprietary Information and Invention Agreement between Andrew Corlett and CQOS, Inc. obligating patent rights to CQOS, Inc. 4. Employee Proprietary Information and Invention Agreement between Robert Mandeville and CQOS, Inc. obligating patent rights to CQOS, Inc.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Carl A. Giordano Duane Morris LLP
Signature	
Date	December 18, 2003

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CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name		
Signature	Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/82 (09-03)

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**REVOCATION OF POWER OF
ATTORNEY WITH
NEW POWER OF ATTORNEY
AND
CHANGE OF CORRESPONDENCE ADDRESS**

Application Number	10/080,925
Filing Date	February 22, 2002
First Named Inventor	Andrew Corlett
Art Unit	2857
Examiner Name	TBA
Attorney Docket Number	Y1618-00001

I hereby revoke all previous powers of attorney given in the above-identified application.

A Power of Attorney is submitted herewith.

OR

I hereby appoint the practitioners associated with the Customer Number: 08933

Please change the correspondence address for the above-identified application to:

The address associated with
Customer Number:

OR

Firm or
Individual Name: Carl A. Giordano

Address: Duane Morris LLP

Address: 380 Lexington Avenue

City: New York State: NY Zip: 10168

Country: USA

Telephone: 212-692-1078 Fax: 212-692-1020

I am the:

Applicant/Inventor.
 Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Name	Dr. Donald G. Basile		
Signature			
Date	12/15/03	Telephone	408-434-5508

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

*Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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STATEMENT UNDER 37 CFR 3.73(b)Applicant/Patent Owner: Andrew Corlett/Robert MandevilleApplication No./Patent No.: 10/080,925 Filed/Issue Date: February 22, 2002Entitled: Network Metric SystemCQOS, Inc., a corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. the assignee of the entire right, title, and interest; or2. an assignee of less than the entire right, title and interest.The extent (by percentage) of its ownership interest is _____ %
in the patent application/patent identified above by virtue of either:

A. [] An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

ORB. A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:1. From: Robert Mandeville To: CQOS, Inc.The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.2. From: Andrew Corlett To: CQOS, Inc.The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

[] Additional documents in the chain of title are listed on a supplemental sheet.

 Copies of assignments or other documents in the chain of title are attached.[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document)
must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be
recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

12/15/03

Date

808-434-5508

Telephone number

Dr. Donald G. Basile

Typed or printed name

Signature

CEO

Title

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This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Form PTO-1595
(Rev. 10/02)

OMB No. 0651-0027 (exp. 6/30/2005)

Tab settings ⇡ ⇢ ⇢

RECORDATION FORM COVER SHEET

PATENTS ONLY

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Andrew Corlett, Robert Mandeville

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

<input type="checkbox"/> Assignment	<input type="checkbox"/> Merger
<input type="checkbox"/> Security Agreement	<input type="checkbox"/> Change of Name
<input checked="" type="checkbox"/> Other Employee Invention Agreements	

Execution Date: 7/7/00

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: _____

A. Patent Application No.(s) 10/080,925

B. Patent No.(s) _____

Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Carl A. Giordano

Internal Address: _____

Street Address: 380 Lexington Avenue

City: New York State: NY Zip: 10168

6. Total number of applications and patents involved:

7. Total fee (37 CFR 3.41).....\$ 40.00

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

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9. Signature.

CARL A. GIORDANO

Name of Person Signing

C. A. Giordano

Signature

12/08/03

Date

Total number of pages including cover sheet, attachments, and documents:

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents & Trademarks, Box Assignments
Washington, D.C. 20231

EMPLOYEE PROPRIETARY INFORMATION AND INVENTIONS AGREEMENT

As material consideration of my (accepting and/or continuing) employment and compensation paid to me by CQOS, Inc., a Delaware company, having its principal place of business at 25 Maulchy, Suite 329, Irvine, California (hereinafter referred to as the "Company"), I agree as follows:

1. I will perform the duties of my employment, as assigned by the Company, in a manner satisfactory to the Company, and devote my full working time to such duties.

2. I recognize that my employment with the Company will involve contact with information of substantial value to the Company, which is not old and generally known in the trade and which gives the Company an advantage over its competitors who do not know or use it, including, but not limited to, techniques, designs, drawings, processes, inventions, developments, equipment, algorithms, software, hardware, firmware, prototypes, sales and customer information, and business and financial information, relating to the business, products, practices or techniques of the Company (hereinafter referred to as "Proprietary Information"). I will at all times regard and preserve as confidential such Proprietary Information, obtained by me from whatever source and will not, either during my employment or thereafter, publish or disclose any part of such Proprietary Information in any manner, or use the same except on behalf of the Company, without the prior written consent of the Company. Further, I will, during my employment and thereafter, refrain from any acts or omissions that would reduce the value of such Proprietary Information to the Company.

3(a). INVENTIONS – I will promptly disclose in writing to the officials designated by the Company to receive such disclosures, complete information concerning each and every invention, discovery, improvement, device, design, apparatus, practice, process, method or product (hereinafter referred to as "Inventions"), whether I consider them patentable or not, made, developed, perfected, devised, conceived or reduced to practice by me, either solely or in collaboration with others, during the period of my employment by the Company, and up to and including a period of six (6) months after termination of my employment, whether or not during regular working hours, relating either directly or indirectly to the business, products, practices or techniques of the Company or to the Company's actual or demonstrably anticipated research or development, or resulting from any work performed by me for the Company.

3(b). I hereby agree that any Inventions made, developed, perfected, devised, conceived, or reduced to practice by me during the period of my employment by the Company, and any other Inventions made, developed, perfected, devised, conceived or reduced to practice by me during said period of six (6) months after termination of my employment, if based upon the Proprietary Information of the Company, relating either directly or indirectly to the business, products, practices or techniques of the Company or to the Company's actual or demonstrably anticipated research or development, or

resulting from any work performed by me for the Company, are the sole property of the Company, and I hereby assign and agree to assign to the Company its successors and assigns, all of my right, title and interest in and to said Inventions, and any patent applications or Letters Patent thereon.

This Agreement does not require assignment of any Inventions which an employee cannot be obligated to assign under Section 2870 of the California Labor Code (hereinafter "Section 2870"). However, I will disclose any Inventions as required by Section 3 hereof, regardless of whether I believe the Invention is protected by Section 2870, in order to permit the Company to engage in a review process to determine such issues as may arise. Such disclosure shall be received in confidence by the Company. Copies of Sections 2870-2872 of the California Labor Code are included as Exhibit A hereto.

3(c). I will, at any time during my employment or thereafter, upon request and without further compensation therefore, but at no expense to me, do all lawful acts, including the execution of papers and oaths and the giving of testimony, that in the opinion of the Company, its successors or assigns, may be necessary or desirable for obtaining, sustaining, reissuing or enforcing Letters Patent in the United States and throughout the world for said Inventions, and for perfecting, recording or maintaining the title of the Company, its successors and assigns, to said Inventions and to any patent applications made and any Letters Patent granted for said Inventions in the United States and throughout the world.

4(a). Other intellectual property – I will also disclose in writing to the officials designated by the Company to receive such disclosures, complete information concerning all other intellectual property, including, but not limited to original works of authorship, trademarks and service marks (and the good will associated therewith), trade secrets and know-how, (hereinafter referred to as "other intellectual property") whether I consider them intellectual property or not, which is made, developed, created, devised, conceived, perfected, reduced to practice, or discovered by me, either solely or in collaboration with others, during the period of my employment by the Company, and up to and including a period of six (6) months after termination of my employment, whether or not during regular working hours, relating either directly or indirectly to the business, products, practices, or techniques of the Company or to the Company's actual or demonstrably anticipated research of development, or resulting from any work performed by me for the Company.

4(b). All copyrightable works of authorship with regard to paragraph 4(a) above, will be deemed "work for hire" as defined in § 101 of the Federal Copyright act and such copyrightable works of authorship shall exclusively belong to the Company. In the event that §101 of the Copyright Act is found to be inapplicable, I will assign all right, title and interest in and to such copyrightable works of authorship to the Company. Such rights shall include all rights of paternity, integrity, disclosure, and withdrawal and any other rights that may be known or referenced to as "moral rights." To the extent such Moral Rights cannot be assigned under applicable law and to the extent the following is

allowed by the laws in the various countries where Moral Rights exist, I hereby waive such Moral Rights and consent to any action of the Company that would violate such Moral Rights in the absence of such consent. I will confirm any such waivers and consents from time to time as requested by the Company. In addition, I will assist the Company in obtaining all registrations for such copyrightable works of authorship pursuant to Section 4(c) below.

4(c). I will, at any time during my employment, or thereafter, upon request and without further compensation therefore, but at no expense to me, do all lawful acts, including the execution of papers and oaths and the giving of testimony, that in the opinion of the Company, its successors and assigns, may be necessary or desirable for obtaining registrations for other intellectual property, including, but not limited to trademarks, service marks, and copyrights, in the United States and throughout the world.

5. As to any Inventions or other intellectual property which were made, developed, perfected, devised, conceived or reduced to practice by me during the period of my employment by the Company, and up to and including a period of six (6) months after termination of my employment, but which are claimed for any reason to belong to an entity or person other than the Company, I will promptly disclose the same in writing to the Company. Within twenty (20) days thereafter, the Company shall claim ownership of such Inventions or other intellectual property under the terms of this Agreement. If the Company makes such a claim, I agree that any controversy relating to such claim will be settled and determined by binding arbitration conducted in California; in accordance with the rules of the American Arbitration Association then existing.

6. I will keep complete, accurate, and authentic accounts, notes, data and records of any and all of said Inventions or other intellectual property in the manner and form requested by the Company. Such accounts, notes, data and records, including all copies thereof, shall be the property of the Company, and upon its request, I will promptly surrender the same to it, or if not previously surrendered, I will promptly surrender the same to the Company at the conclusion of my employment.

7. I agree that all accounts, notes, data sketches, drawings and other documents and records, and all material and physical items of any kind, including all reproductions and copies thereof, which relate in any way to the business, products, practices, or techniques of the Company or contain Proprietary Information made by me or that come into my possession by reason of my employment are the property of the Company and will be promptly surrendered to the Company at the conclusion of my employment.

8. It is further understood that I may possess proprietary and confidential information including, but not limited to trade secrets, patents, research and development techniques, designs, drawings, processes, inventions, software, hardware, firmware, algorithms, development, equipment, prototypes, sales and customer information and business practices or techniques of a prior employer or third party. Accordingly, it is expected that I will take all reasonable measures to protect the proprietary and

confidential information of the prior employer or third party and that I will not disclose to the Company the proprietary and/or confidential information or use such information as to injure the rights of the prior employer or third party. Accordingly, I represent and warrant that I have not and will not disclose or use any information on behalf of the Company that I have no right to use. I further represent and warrant that I have not and will not take any proprietary or confidential information from a third party to use on behalf of the Company.

9. I have attached hereto a complete list of all existing Inventions to which I claim ownership (Attachment B) as the date of this Agreement and that I desire to specifically clarify are not subject to this Agreement, and I acknowledge and agree that such list is complete. If no such list is attached to this Agreement, I represent that I have no such Inventions at the time of signing this Agreement.

10. I affirm that I have no agreement with any other party that would preclude my compliance with my obligations under this Agreement as set forth above.

11. At the conclusion of my employment with the Company, I agree to give a written statement to the Company certifying that I have completed my obligations under this Agreement and acknowledge my continuing obligations to disclose Inventions, to do certain lawful acts relating to United States and foreign Letters Patent or said Inventions and other intellectual property, and to preserve as confidential and refrain from using the Company's Proprietary Information.

12. The provisions of this Agreement shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties hereto.

13. During the term of my employment and for one (1) year thereafter, I will not encourage or solicit any employee or consultant of the Company to leave the Company for any reason. However, this obligation shall not affect any responsibility I may have as an employee of the Company with respect to the bona fide hiring and firing of Company personnel.

14. I agree that during my employment with the Company I will not engage in any employment, business, or activity that is in any way competitive with the business or proposed business of the Company, and I will not assist any other person or organization in competing with the Company or in preparing to engage in competition with the business or proposed business of the Company. The provisions of this paragraph shall apply both during normal working hours and at all other times including, but not limited to, nights, weekends and vacation time, while I am employed by the Company.

15. I agree that this Agreement is not an employment contract and that I have the right to resign and the Company has the right to terminate my employment at any time, for any reason, with or without cause.

16. I agree that this Agreement does not purport to set forth all of the terms and conditions of my employment, and that as an employee of the Company I have obligations to the Company which are not set forth in this Agreement.

17. If any provision of the Agreement shall be held by a Court of competent jurisdiction to be contrary to law, such provision shall be deemed to be null and void, and the remainder of this agreement shall be in full force and effect.

18. This Agreement shall be deemed to be executed and to be performed in the State of California and shall be construed in accordance with the laws of the State of California as to all matters, including, but not limited to matters of validity, construction, effect and performance. California shall be deemed to be the proper venue for resolving disputes between the parties.

19. I ACKNOWLEDGE THAT I HAVE BEEN ADVISED BY THE COMPANY TO SEEK THE BENEFIT AND ADVICE OF LEGAL COUNSEL WITH RESPECT TO THE NEGOTIATION, REVIEW, EXECUTION AND DELIVERY OF THIS AGREEMENT AND THAT I HAVE EITHER FOLLOWED SUCH RECOMMENDATION AND SO REVIEWED IT WITH COUNSEL, OR I HAVE ELECTED NOT TO DO SO. IN EITHER EVENT, I HAVE CAREFULLY READ THIS ENTIRE AGREEMENT AND FULLY UNDERSTAND THE SAME.

EXECUTED at San Jose, California this 7th day of July, 2000.

By:


(Employee's Signature)

Andrew Covell
(Employee's Name)

ACCEPTED AND AGREED TO:

CQOS, INC.

By: 111-
Its: ROBERT MARDEVILLE, PRESIDENT

ATTACHMENT A

Section 2870. Application of provision providing that employee shall assign or offer to assign rights in invention to employer.

(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer; or

(2) Result from any work performed by the employee for his employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.

Section 2871. Conditions of employment or continued employment; disclosure of inventions.

No employer shall require a provision made void and unenforceable by Section 2870 as a condition of employment or continued employment. Nothing in this article shall be construed to forbid or restrict the right of an employer to provide in contracts of employment for disclosure, provided that any such disclosures be received in confidence, of all of the employee's inventions made solely or jointly with others during the term of his or her employment, a review process by the employer to determine such issues as may arise, and for full title to certain patents and inventions to be in the United States, as required by contracts between the employer and the United States or any of its agencies.

Section 2872 Notice to employee; burden of proof

If an employment agreement entered into after January 1, 1980, contains a provision requiring the employee to assign or offer an assign any of his or her rights to any invention to his or her employer, the employer must also, at the time the agreement is made, provide a written notification to the employee that the agreement does not apply to an invention which qualifies fully under the provisions of Section 2870. In any suit or action arising thereunder, the burden of proof shall be on the employee claiming the benefits or its provisions.

ATTACHMENT B

CQOS, Inc.
25 Maulchy
Suite 329
Irvine, California 92618

Gentlemen:

1. The following is a complete list of Inventions relevant to the subject matter of my employment by CQOS, Inc. (the "Company") that have been made or conceived or first reduced to practice by me alone or jointly with others prior to my employment by the Company that I desire to clarify are not subject to the Company's Proprietary Information and Inventions Agreement.

No Inventions

See below:

Additional sheets attached

2. I propose to bring to my employment the following materials and documents of a former employer:

No materials or documents

See below:

Employee

**EMPLOYEE PROPRIETARY INFORMATION AND INVENTIONS
AGREEMENT**

As material consideration of my (accepting and/or continuing) employment and compensation paid to me by CQOS, Inc., a Delaware company, having its principal place of business at 25 Maulchy, Suite 329, Irvine, California (hereinafter referred to as the "Company"), I agree as follows:

1. I will perform the duties of my employment, as assigned by the Company, in a manner satisfactory to the Company, and devote my full working time to such duties.

2. I recognize that my employment with the Company will involve contact with information of substantial value to the Company, which is not old and generally known in the trade and which gives the Company an advantage over its competitors who do not know or use it, including, but not limited to, techniques, designs, drawings, processes, inventions, developments, equipment, algorithms, software, hardware, firmware, prototypes, sales and customer information, and business and financial information, relating to the business, products, practices or techniques of the Company (hereinafter referred to as "Proprietary Information"). I will at all times regard and preserve as confidential such Proprietary Information, obtained by me from whatever source and will not, either during my employment or thereafter, publish or disclose any part of such Proprietary Information in any manner, or use the same except on behalf of the Company, without the prior written consent of the Company. Further, I will, during my employment and thereafter, refrain from any acts or omissions that would reduce the value of such Proprietary Information to the Company.

3(a). INVENTIONS - I will promptly disclose in writing to the officials designated by the Company to receive such disclosures, complete information concerning each and every invention, discovery, improvement, device, design, apparatus, practice, process, method or product (hereinafter referred to as "Inventions"), whether I consider them patentable or not, made, developed, perfected, devised, conceived or reduced to practice by me, either solely or in collaboration with others, during the period of my employment by the Company, and up to and including a period of six (6) months after termination of my employment, whether or not during regular working hours, relating either directly or indirectly to the business, products, practices or techniques of the Company or to the Company's actual or demonstrably anticipated research or development, or resulting from any work performed by me for the Company.

3(b). I hereby agree that any Inventions made, developed, perfected, devised, conceived, or reduced to practice by me during the period of my employment by the Company, and any other Inventions made, developed, perfected, devised, conceived or reduced to practice by me during said period of six (6) months after termination of my employment, if based upon the Proprietary Information of the Company, relating either directly or indirectly to the business, products, practices or techniques of the Company or to the Company's actual or demonstrably anticipated research or development, or

resulting from any work performed by me for the Company, are the sole property of the Company, and I hereby assign and agree to assign to the Company its successors and assigns, all of my right, title and interest in and to said Inventions, and any patent applications or Letters Patent thereon.

This Agreement does not require assignment of any Inventions which an employee cannot be obligated to assign under Section 2870 of the California Labor Code (hereinafter "Section 2870"). However, I will disclose any Inventions as required by Section 3 hereof, regardless of whether I believe the Invention is protected by Section 2870, in order to permit the Company to engage in a review process to determine such issues as may arise. Such disclosure shall be received in confidence by the Company. Copies of Sections 2870-2872 of the California Labor Code are included as Exhibit A hereto.

3(c). I will, at any time during my employment or thereafter, upon request and without further compensation therefore, but at no expense to me, do all lawful acts, including the execution of papers and oaths and the giving of testimony, that in the opinion of the Company, its successors or assigns, may be necessary or desirable for obtaining, sustaining, reissuing or enforcing Letters Patent in the United States and throughout the world for said Inventions, and for perfecting, recording or maintaining the title of the Company, its successors and assigns, to said Inventions and to any patent applications made and any Letters Patent granted for said Inventions in the United States and throughout the world.

4(a). Other intellectual property – I will also disclose in writing to the officials designated by the Company to receive such disclosures, complete information concerning all other intellectual property, including, but not limited to original works of authorship, trademarks and service marks (and the good will associated therewith), trade secrets and know-how, (hereinafter referred to as "other intellectual property") whether I consider them intellectual property or not, which is made, developed, created, devised, conceived, perfected, reduced to practice, or discovered by me, either solely or in collaboration with others, during the period of my employment by the Company, and up to and including a period of six (6) months after termination of my employment, whether or not during regular working hours, relating either directly or indirectly to the business, products, practices, or techniques of the Company or to the Company's actual or demonstrably anticipated research of development, or resulting from any work performed by me for the Company.

4(b). All copyrightable works of authorship with regard to paragraph 4(a) above, will be deemed "work for hire" as defined in § 101 of the Federal Copyright Act and such copyrightable works of authorship shall exclusively belong to the Company. In the event that §101 of the Copyright Act is found to be inapplicable, I will assign all right, title and interest in and to such copyrightable works of authorship to the Company. Such rights shall include all rights of paternity, integrity, disclosure, and withdrawal and any other rights that may be known or referenced to as "moral rights." To the extent such Moral Rights cannot be assigned under applicable law and to the extent the following is

allowed by the laws in the various countries where Moral Rights exist, I hereby waive such Moral Rights and consent to any action of the Company that would violate such Moral Rights in the absence of such consent. I will confirm any such waivers and consents from time to time as requested by the Company. In addition, I will assist the Company in obtaining all registrations for such copyrightable works of authorship pursuant to Section 4(c) below.

4(c). I will, at any time during my employment, or thereafter, upon request and without further compensation therefore, but at no expense to me, do all lawful acts, including the execution of papers and oaths and the giving of testimony, that in the opinion of the Company, its successors and assigns, may be necessary or desirable for obtaining registrations for other intellectual property, including, but not limited to trademarks, service marks, and copyrights, in the United States and throughout the world.

5. As to any Inventions or other intellectual property which were made, developed, perfected, devised, conceived or reduced to practice by me during the period of my employment by the Company, and up to and including a period of six (6) months after termination of my employment, but which are claimed for any reason to belong to an entity or person other than the Company, I will promptly disclose the same in writing to the Company. Within twenty (20) days thereafter, the Company shall claim ownership of such Inventions or other intellectual property under the terms of this Agreement. If the Company makes such a claim, I agree that any controversy relating to such claim will be settled and determined by binding arbitration conducted in California; in accordance with the rules of the American Arbitration Association then existing.

6. I will keep complete, accurate, and authentic accounts, notes, data and records of any and all of said Inventions or other intellectual property in the manner and form requested by the Company. Such accounts, notes, data and records, including all copies thereof, shall be the property of the Company, and upon its request, I will promptly surrender the same to it, or if not previously surrendered, I will promptly surrender the same to the Company at the conclusion of my employment.

7. I agree that all accounts, notes, data sketches, drawings and other documents and records, and all material and physical items of any kind, including all reproductions and copies thereof, which relate in any way to the business, products, practices, or techniques of the Company or contain Proprietary Information made by me or that come into my possession by reason of my employment are the property of the Company and will be promptly surrendered to the Company at the conclusion of my employment.

8. It is further understood that I may possess proprietary and confidential information including, but not limited to trade secrets, patents, research and development techniques, designs, drawings, processes, inventions, software, hardware, firmware, algorithms, development, equipment, prototypes, sales and customer information and business practices or techniques of a prior employer or third party. Accordingly, it is expected that I will take all reasonable measures to protect the proprietary and

confidential information of the prior employer or third party and that I will not disclose to the Company the proprietary and/or confidential information or use such information as to injure the rights of the prior employer or third party. Accordingly, I represent and warrant that I have not and will not disclose or use any information on behalf of the Company that I have no right to use. I further represent and warrant that I have not and will not take any proprietary or confidential information from a third party to use on behalf of the Company.

9. I have attached hereto a complete list of all existing Inventions to which I claim ownership (Attachment B) as the date of this Agreement and that I desire to specifically clarify are not subject to this Agreement, and I acknowledge and agree that such list is complete. If no such list is attached to this Agreement, I represent that I have no such Inventions at the time of signing this Agreement.

10. I affirm that I have no agreement with any other party that would preclude my compliance with my obligations under this Agreement as set forth above.

11. At the conclusion of my employment with the Company, I agree to give a written statement to the Company certifying that I have completed my obligations under this Agreement and acknowledge my continuing obligations to disclose Inventions, to do certain lawful acts relating to United States and foreign Letters Patent or said Inventions and other intellectual property, and to preserve as confidential and refrain from using the Company's Proprietary Information.

12. The provisions of this Agreement shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties hereto.

13. During the term of my employment and for one (1) year thereafter, I will not encourage or solicit any employee or consultant of the Company to leave the Company for any reason. However, this obligation shall not affect any responsibility I may have as an employee of the Company with respect to the bona fide hiring and firing of Company personnel.

14. I agree that during my employment with the Company I will not engage in any employment, business, or activity that is in any way competitive with the business or proposed business of the Company, and I will not assist any other person or organization in competing with the Company or in preparing to engage in competition with the business or proposed business of the Company. The provisions of this paragraph shall apply both during normal working hours and at all other times including, but not limited to, nights, weekends and vacation time, while I am employed by the Company.

15. I agree that this Agreement is not an employment contract and that I have the right to resign and the Company has the right to terminate my employment at any time, for any reason, with or without cause.

16. I agree that this Agreement does not purport to set forth all of the terms and conditions of my employment, and that as an employee of the Company I have obligations to the Company which are not set forth in this Agreement.

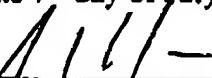
17. If any provision of the Agreement shall be held by a Court of competent jurisdiction to be contrary to law, such provision shall be deemed to be null and void, and the remainder of this agreement shall be in full force and effect.

18. This Agreement shall be deemed to be executed and to be performed in the State of California and shall be construed in accordance with the laws of the State of California as to all matters, including, but not limited to matters of validity, construction, effect and performance. California shall be deemed to be the proper venue for resolving disputes between the parties.

19. I ACKNOWLEDGE THAT I HAVE BEEN ADVISED BY THE COMPANY TO SEEK THE BENEFIT AND ADVICE OF LEGAL COUNSEL WITH RESPECT TO THE NEGOTIATION, REVIEW, EXECUTION AND DELIVERY OF THIS AGREEMENT AND THAT I HAVE EITHER FOLLOWED SUCH RECOMMENDATION AND SO REVIEWED IT WITH COUNSEL, OR I HAVE ELECTED NOT TO DO SO. IN EITHER EVENT, I HAVE CAREFULLY READ THIS ENTIRE AGREEMENT AND FULLY UNDERSTAND THE SAME.

EXECUTED at San Jose, California this 7th day of July, 2000.

By:


(Employee's Signature)

ROBERT MANDEVILLE
(Employee's Name)

ACCEPTED AND AGREED TO:

CQOS, INC.

By: 
Its: VP Engineering

ATTACHMENT A

Section 2870. Application of provision providing that employee shall assign or offer to assign rights in invention to employer.

(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer; or

(2) Result from any work performed by the employee for his employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.

Section 2871. Conditions of employment or continued employment; disclosure of inventions.

No employer shall require a provision made void and unenforceable by Section 2870 as a condition of employment or continued employment. Nothing in this article shall be construed to forbid or restrict the right of an employer to provide in contracts of employment for disclosure, provided that any such disclosures be received in confidence, of all of the employee's inventions made solely or jointly with others during the term of his or her employment, a review process by the employer to determine such issues as may arise, and for full title to certain patents and inventions to be in the United States, as required by contracts between the employer and the United States or any of its agencies.

Section 2872 Notice to employee; burden of proof

If an employment agreement entered into after January 1, 1980, contains a provision requiring the employee to assign or offer to assign any of his or her rights to any invention to his or her employer, the employer must also, at the time the agreement is made, provide a written notification to the employee that the agreement does not apply to an invention which qualifies fully under the provisions of Section 2870. In any suit or action arising thereunder, the burden of proof shall be on the employee claiming the benefits or its provisions.

ATTACHMENT B

CQOS, Inc.
25 Maulchy
Suite 329
Irvine, California 92618

Gentlemen:

1. The following is a complete list of Inventions relevant to the subject matter of my employment by CQOS, Inc. (the "Company") that have been made or conceived or first reduced to practice by me alone or jointly with others prior to my employment by the Company that I desire to clarify are not subject to the Company's Proprietary Information and Inventions Agreement.

No Inventions

See below:

Additional sheets attached

2. I propose to bring to my employment the following materials and documents of a former employer:

No materials or documents

See below:

Employee